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Paper No. 3

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In re Application of
Strickholm, et al
Application No. 10/004,384
Filed: October 31, 2001
Attorney Docket No. 50449-00002

OFFICE OF PETITIONS
: DECISION GRANTING
: PETITION
: :

This is a decision on the petition filed December 20, 2001 to accord a filing date of October 31, 2001 to the above identified application, rather than the presently accorded filing date of December 6, 2001.

Petitioners request an October 31, 2001 filing date on the basis that the application was deposited in Express Mail Post Office to Addressee service on October 31, 2001, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by, *inter alia*, a statement by Jean A. Burns, the legal assistant who deposited the application in Express Mail service. Ms. Burns states that she placed the application in an Express Mail envelope bearing the mailing label of EF397474852US and deposited it in an Express Mail drop box on October 31, 2001. The same Express Mail mailing label number is found on the transmittal letter of the original application papers found in the application file.

While petitioners have not submitted their Express Mail label (purportedly because it was not returned from the USPS), a review of the USPS Shipping Center Track and Confirm website indicates that the package bearing the mailing label number of EF397474852US was present at the Denver, CO processing center on October 31, 2001.

This information, considered in conjunction with the declaration of Ms. Burns and the fact that the original application papers contain the Express Mail mailing label number EF397474852US affixed thereto, establishes to the satisfaction of the Commissioner that the application was deposited in Express Mail on October 31, 2001 prior to the last scheduled pickup.

Accordingly, the petition is granted.

No fee has been or will be charged in connection with this matter.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **October 31, 2001**.

Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.



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Office of the Deputy Commissioner
for Patent Examination Policy